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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ARISTA RECORDS LLC, et al.

Plaintiffs,

v.

MYXER INC., f/k/a mVISIBLE
TECHNOLOGIES, INC., et al.

Defendants.

CASE NO. CV 08-03935 GAF (JCx)

The Honorable Gary A. Feess

**JOINT STIPULATION AND
[PROPOSED] SCHEDULE**

Plaintiff UMG Recordings, Inc. (“Plaintiff”) and Defendants Myxer, Inc., f/k/a mVisible Technologies, Inc., Michael “Myk” Willis, Scott Kinnear and Ron Harris (collectively, “Defendants”), by and through their undersigned counsel of record, stipulate and agree as follows:

WHEREAS, this matter was previously set for jury trial commencing on February 2, 2010;

WHEREAS, on October 1, 2009, defendants Michael Myk Willis, Scott Kinnear and Ron Harris filed a motion to dismiss [Docket No. 271] (“Motion to Dismiss”), originally set for hearing on October 26, 2009 and later continued to January 25, 2010;

WHEREAS, on October 18, 2009, plaintiffs filed a motion for summary judgment as to liability, or, alternatively, a determination of material facts not

1 genuinely at issue [Docket No. 308] (the “Summary Judgment Motion”), originally
2 set for hearing on November 23, 2009 and later continued to January 25, 2010;

3 WHEREAS, on December 28, 2009, the Court vacated the Pretrial
4 Conference date, the hearing date on motions in limine and disputed jury instructions,
5 and the trial date, while the Court was considering the Summary Judgment Motion
6 and Motion to Dismiss [Docket No.456];

7 WHEREAS, on January 21, 2010, the Court entered a Case Management
8 Order [Docket No. 478] vacating the hearing on the Summary Judgment Motion and
9 Motion to Dismiss pending a ruling by Magistrate Judge Chooljian on an anticipated
10 motion to enforce subpoenas, a ruling which was later issued on April 27, 2010;

11 WHEREAS, on June 18, 2010, the Court issued a Case Management
12 Order [Docket No. 513] in which the Court ordered the parties to meet and confer
13 regarding a proposed schedule for litigation of this matter which would bring the
14 matter to trial within 120 days and would provide for supplemental briefing, if any,
15 on the parties’ pending motions;

16 WHEREAS, lead counsel for Plaintiff, Jeffrey D. Goldman, is lead
17 counsel or co-lead counsel in several matters which have already been set for trial on
18 dates which would preclude the trial in this matter from commencing in October,
19 2010; and

20 WHEREAS, the parties have met and conferred and, in light of the
21 conflicts identified above, agreed upon the following proposed schedule.

22 THEREFORE, the parties hereby jointly propose the following schedule
23 for litigation of this matter:

- 24 • Monday, July 26, 2010: The parties shall simultaneously file and serve
25 supplemental briefing, if any, on the Summary Judgment Motion and Motion to
26 Dismiss, not to exceed seven pages in length, along with any supporting evidence.

- 1 • Monday, August 2, 2010: The parties shall simultaneously file and serve response
- 2 briefs to the supplemental briefing, if any, not to exceed seven pages in length,
- 3 along with any supporting evidence.
- 4 • Monday, August 23, 2010: The Court shall hold oral argument on the Summary
- 5 Judgment Motion and Motion to Dismiss.
- 6 • Monday, August 30, 2010: The parties shall re-file the following Rule 16 pre-trial
- 7 documents: the Pre-Trial Conference Order, Memoranda of Contentions of Fact
- 8 and Law, exhibit lists, witness lists and jury instructions/verdict form. These
- 9 documents shall be updated to reflect the parties and issues which remain in the
- 10 case following the Court's rulings on the Summary Judgment Motion and Motion
- 11 to Dismiss. The parties shall also file motions in limine, and shall lodge proposed
- 12 voir dire questions and an agreed-upon statement of the case.
- 13 • Tuesday, September 7, 2010: The parties shall file oppositions to motions in
- 14 limine.
- 15 • Monday, September 13, 2010: The parties shall file reply papers in support of the
- 16 motions in limine.
- 17 • Monday, September 20, 2010: The Court shall hold the Pre-Trial Conference and
- 18 a hearing on motions in limine and disputed jury instructions.
- 19 • Tuesday, September 28, 2010: Jury trial commences, which is anticipated to last
- 20 12 court days, subject to change based upon the Court's ruling on the Summary
- 21 Judgment Motion, the Motion to Dismiss and anticipated motions in limine.
- 22

23 DATED: July 6, 2010

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27 By: /s/ Ryan S. Mauck
RYAN S. MAUCK
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1 DATED: July 6, 2010

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